IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8523 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DUMIYANI GRAM PANCHAYAT

Versus

RATHOD BABULAL RAMJIBHAI

Appearance:

MR HJ NANAVATI for Petitioner

MR PH PATHAK for Respondent No. 1, 2

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 23/02/2001

ORAL JUDGEMENT

#. Application Nos. 343 and 344/86 were submitted before the Presiding Officer of Labour Court (III), Rajkot, under section 33C(2) of the Industrial Disputes Act, inter alia stating that the workmen though working

since last more than 4 years, the employer failed to make the payment as required to be made in accordance with law. The amount of difference was claimed. Sick leave, casual leave, weekly leave, bonus etc. were also demanded. In reply thereto, it was pointed out that the workmen were not permanent employees but they were part time temporary employees and they were required to be paid wages according to hours for which they were working and were paid salary as per the Govt. Resolutions. It was pointed out that they were not entitled to make any further demand. It seems that thereafter the court issued notice for hearing but the respondent did not remain present. Thereafter the cases were clubbed at the instance of the workmen and exparte order was made for making payment to the workmen on 24.4.88.

#. Thereafter an application was submitted under Rule 26A of the Industrial Courts (Gujarat)) Rules, 1966 inter alia requesting that Sarpanch was bedridden and unfortunately he expired on 4.1.88. Copy of the death certificate was also produced before the Labour Court. It was also pointed out that ordinarily, Secretaries are discharging their duties and during the period from 1.2.86 to 12.6.88, there were three different Secretaries. These Secretaries are also discharging duties not as Secretary of one village but as Secretary of different villages. The case was transferred to other court for which no notice was issued. The Labour Court in the concluding para pointed out that even if the case is transferred, it is for the parties to collect information and the parties are not required to be informed with regard to the transfer of cases and there is no procedure prescribed in the law. In view of this, if the case is transferred from one court to another court and if the applicant is not informed about the same, that is not the ground to entertain the application.

#. It is admitted that the case was transferred from one court to other court. The other court disposed of the matter without issuance of process to the Panchayat. The Panchayat could not have known that the case is transferred to the other court taking up the matter. In any case, the Panchayat is a public body and it would have been in the fitness of things if the opportunity would have been given by the Labour Court to decide the matter in accordance with law.

#. Under the circumstances, the benefit already given to the respondents are not required to be disturbed by this Court. There is delay and therefore also, it would not

be proper to set aside that part of the order concerned at this stage. However, in the facts of the case, it is directed that the Labour Court shall decide the matter aftesh without being influenced by previous order or the order passed by this Court. The petition stands allowed partly. Rule is made absolute to the above extent.

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